



08-28-06

Express Mail. No.: EV 475 143 057 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patentee:	Charlotte A. Kensil	Confirmation No.:	7153
Patent No.	5,057,540	Serial No.:	07/573,268
Issued:	October 15, 1991	Filed:	August 27, 1990
Title:	Saponin Adjuvant	Attorney Docket No:	8449-159 (formerly: 0614.0690004)

RESPONSE TO NOTICE UNDER 37 C.F.R. § 1.251 - Patent

Mail Stop RECONSTRUCTION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Notice Under 37 CFR 1.251 ("Notice") mailed February 27, 2006 in connection with the above-identified application, Patentee submits herewith: (a) a copy of the Notice; (b) a completed Form PTO-2055-B; and (c) a copy of the Patentee's record of all of the correspondence between the Patent Office and the Patentee for the above-identified patent (except for U.S. patent documents) as resident in the file of Attorneys for Patentee.

Pursuant to 37 CFR 1.251(a)(1)(i) and 1.251(a)(1)(ii), Patentee submits herewith the following correspondence:

- (1) application as filed on May 31, 1988 which consisted of the following:
 - (a) a Return Receipt Postcard which on one side had an itemized list of the papers mailed on May 31, 1988;
 - (b) a Transmittal letter; and
 - (c) the application (49 pages of specification; 6 pages of claims; one page abstract; and 23 sheets of informal drawings);

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- (2) Notice to File Missing Parts of Application – Filing Date Granted mailed July 6, 1988 by the Patent Office;
- (3) the response to the Notice to File Missing Parts as filed on August 4, 1988 which consisted of the following:
 - (a) a Return Receipt Postcard which on one side had an itemized list of the papers mailed on August 4, 1988;
 - (b) Transmittal letter;
 - (c) Response to Notice to File Missing Parts of Application;
 - (d) Declaration;
 - (e) Copy of the Notice to File Missing Parts of Application;
 - (f) Assignment; and
 - (g) SSK&G check no. 2167 in the amount of \$879.00;
- (4) the Filing Receipt mailed by the Patent Office;
- (5) a Return Receipt Postcard which on one side had an itemized list of the papers mailed on November 14, 1988¹;
- (6) an Information Disclosure Statement as filed on December 14, 1998 which consisted of the following:
 - (a) a Return Receipt Postcard which on one side had an itemized list of the papers mailed on December 14, 1988;
 - (b) Transmittal letter;
 - (c) Information Disclosure Statement;
 - (d) Form PTO-1449; and
 - (e) References cited on Form PTO-1449² (except U.S. patent documents);
- (7) the Notice of Recordation of Assignment Document mailed by the Patent Office, and accompanying recorded Response and Assignment;
- (8) the Office Action mailed on May 22, 1989 by the Patent Office, including a Notice of References Cited and copy of Reference R;
- (9) an Amendment and Response under 37 C.F.R. § 1.115, and accompanying documents, as filed on November 22, 1989, which consisted of the following:
 - (a) a Return Receipt Postcard which on one side had an itemized list of the papers mailed on November 22, 1989;
 - (b) Transmittal letter;

¹ Copies of the Submission of Formal Drawings, and Formal Drawings are missing from Attorneys for Patentee's files.

² Copies of the cited references were not originally part of Attorneys for Patentee's files, but copies of the references were subsequently obtained.

- (c) Petition for Extension of Time under 37 C.F.R. § 1.136;
- (c) Amendment and Response under 37 C.F.R. § 1.115;
- (d) Declaration of Dr. Charlotte Kensil under 37 C.F.R. § 1.132;
- (e) Petition under 37 C.F.R. §1.48(b);
- (f) Amendment of Inventorship under 37 C.F.R. §1.48(b); and
- (g) SSK&G check no. 3798 in the amount of \$550.00;

(10) a Supplemental Response, and accompanying documents, as filed on December 1, 1989 which consisted of the following:

- (a) a Return Receipt Postcard which on one side had an itemized list of the papers mailed on December 1, 1989;
- (b) Transmittal letter;
- (c) Supplemental Response; and
- (d) Original executed Declaration of Dr. Charlotte Kensil under 37 C.F.R. §1.132 with Exhibit A;

(11) the final Office Action mailed on February 26, 1990 by the Patent Office;

(12) a Rule 1.62 FWC Continuation Application, and accompanying documents, as filed on August 27, 1990 which consisted of the following:

- (a) two Return Receipt Postcards which on one side had an itemized list of the papers mailed on August 27, 1990;
- (b) Transmittal letter;
- (c) Associate Power of Attorney;
- (d) Petition for Three-Month Extension of Time under 37 C.F.R. § 1.136;
- (e) Rule 1.62 FWC Continuation Application; and
- (f) SSK&G check no. 4633 in the amount of \$1100.00;

(13) the Filing Receipt for U.S. Application No. 07/573,268;

(14) the Corrected Filing Receipt for U.S. Application No. 07/200,754;

(15) a Request for Refund, and accompanying documents, as filed on October 5, 1990 which consisted of the following:

- (a) a Return Receipt Postcard which on one side had an itemized list of the papers mailed on October 5, 1990;
- (b) Transmittal letter;
- (c) Request for Refund;

- (d) an original executed Verified Statement (Declaration) Claiming Small Entity Status under 37 C.F.R. § 1.9(f) and § 127(c) as a Small Business Concern;
- (e) duplicate copy of SSK&G check no. 4633;
- (16) Examiner Interview Summary Record dated October 30, 1990 by the Patent Office;
- (17) a Preliminary Amendment, and accompanying documents, as filed on November 2, 1990:
 - (a) a Return Receipt Postcard which on one side had an itemized list of the papers hand delivered on November 2, 1990;
 - (b) Transmittal letter;
 - (c) Preliminary Amendment;
 - (d) Unexecuted copy of a Declaration Under 37 C.F.R. §1.131 of Dr. Kensil and Dr. Marciani;
 - (e) duplicate copy of a Petition and Amendment filed under 37 C.F.R. §1.48(b) filed in the parent application, Serial No. 07/200,754;
 - (f) European Search Report;
 - (g) Form PTO-1449; and
 - (h) Kartnig et al., *Planta Medica* 23(3):269-271 (1973);
- (18) a communication submitting the following documents to the Patent Office on November 5, 1990³:
 - (a) a Return Receipt Postcard which on one side had an itemized list of the papers mailed on November 5, 1990;
 - (b) Executed Original Declaration Under 37 C.F.R. §1.131; and
 - (c) Exhibits A-L accompanying the Declaration;
- (19) a Notice of Allowance and Issue Fee Due mailed on November 7, 1990 by the Patent Office, and accompanying Notice of Allowability and Form PTO-1449 initialed and signed by the Examiner;
- (20) the Issue Fee Transmittal, and accompanying documents, as filed on February 6, 1991 which consisted of the following:
 - (a) a Return Receipt Postcard which on one side had an itemized list of the papers mailed on February 6 , 1991;
 - (b) Transmittal letter;
 - (c) an Issue Fee Transmittal (Form PTOL-85b);
 - (c) Letter to the Draftsman;

³ A duplicate copy of the documents as hand-delivered on Friday, November 2, 1990, listed in #17, was also filed. This duplicate copy is not part of the records of Attorneys for Patentee and is not included herewith.

- (d) Twenty-three (23) sheets of formal drawings (15 figures);
- (e) Check no. 08517 for \$1065.00;
- (21) the Notice of Drawing Requirements mailed on February 16, 1991 by the Patent Office, and accompanying Notice of Draftman's Patent Drawing Review;
- (22) a Letter to the Official Draftsmen, and accompanying documents, as filed on March 6, 1991 which consisted of the following documents:
 - (a) a Return Receipt Postcard which on one side had an itemized list of the papers mailed on March 6, 1991;
 - (b) Letter to the Official Draftsmen, together with twenty-two (22) sheets of corrected substitute drawings;
- (23) a Communication as filed on August 16, 1991 which consisted of the following documents:
 - (a) a Return Receipt Postcard which on one side had an itemized list of the papers hand carried on August 16, 1991;
 - (b) duplicate copy of the Notice of Drawing Requirements mailed on February 16, 1991;
 - (c) duplicate copy of the Letter to the Official Draftsmen filed on March 6, 1991;
 - (d) duplicate copy of the Return Receipt Postcard postmarked on March 6, 1991; and
 - (e) twenty-three (23) sheets of formal drawings;
- (24) the Issue Notification mailed on September 12, 1991 by the Patent Office;
- (25) the Request for Certificate of Correction Under 37 C.F.R. §1.323, and accompanying documents, as filed on February 27, 1992 which consisted of the following:
 - (a) a Return Receipt Postcard which on one side had an itemized list of the papers mailed on February 27, 1992;
 - (b) Transmittal letter;
 - (c) Request for Certificate of Correction Under 37 C.F.R. §1.323;
 - (d) SKG&F Check No. 09703 for \$70.00;
- (26) the Certificate of Correction mailed on May 3, 1993 by the Patent Office;
- (27) the Change of Address filed on September 9, 1993;
- (28) a Request for Refund, and accompanying documents, as filed on December 13, 1994 which consisted of the following:
 - (a) a Return Receipt Postcard which on one side had an itemized list of the papers mailed on December 13, 1994;

- (b) Transmittal letter
- (c) Request for Refund;
- (d) Exhibit 1; and
- (e) Exhibit 2;

(29) a Maintenance Fee Transmittal Form, and accompanying documents, as filed on February 21, 1995 which consisted of the following:

- (a) a Return Postcard which on one side had an itemized list of the papers mailed on February 21, 1995;
- (b) Transmittal letter;
- (c) Maintenance Fee Transmittal Form (Form PTO-1536);
- (d) Duplicate copy of Verified Statement Claiming Small Entity Status (37 C.F.R. §1.9(f) and 1.27(c)) Small Business Concern as filed on October 5, 1990; and
- (e) SKG&F Check No. 14333 for \$480.00;

(30) a Statement Under 37 C.F.R. §1.128(c)(2), and accompanying documents, filed on June 18, 1996 which consisted of the following:

- (a) a Return Postcard which on one side had an itemized list of the papers mailed on June 18, 1996;
- (b) Transmittal letter;
- (c) Statement Under 37 C.F.R. §1.128(c)(2); and
- (d) SKG&F Check No. 17068 for \$510.00;

(31) a Notice of Recordation of Assignment Document mailed on February 20, 1997 by the Patent Office;

(32) a Revocation of Prior Power of Attorney and Appointment of New Attorneys of Record, and accompanying documents, as filed on June 4, 1997 which consisted of the following:

- (a) a Return Postcard which on one side had an itemized list of the papers mailed on June 4, 1997;
- (b) Transmittal letter;
- (c) Revocation of Prior Power of Attorney and Appointment of New Attorneys of Record;
- (d) Appendix A;

(33) the response to the Power of Attorney (filed June 4, 1997) mailed on September 12, 1997 by the Patent Office;

(34) a Request for Certificate of Correction Under 37 C.F.R. § 1.323 and accompanying documents, as filed on March 1, 1999 which consisted of the following:

- (a) a Return Postcard which on one side had an itemized list of the papers mailed on March 1, 1999;
- (b) Transmittal letter;
- (c) Request for Certificate of Correction Under 37 C.F.R. § 1.323;
- (d) April, 1985 "VYDAC HPLC COLUMNS AND PACKING MATERIALS" catalog from the Separations Group; and
- (e) Certificate of Correction;

(35) the Certificate of Merger, with Recordation Form Cover Sheet, as filed on January 7, 2002 which consisted of the following:

- (a) a Return Receipt Postcard which on one side had an itemized list of the papers mailed on January 7, 2002 under Express Mail Label No. EL501742475US;
- (b) Certificate of Merger, with Recordation Form Cover Sheet;

(36) the Revocation and Power of Attorney by Assignee, any accompanying document, as filed on January 28, 2002:

- (a) a Return Receipt Postcard which on one side had an itemized list of the papers mailed on January 28, 2002 under Express Mail Label No. EL477034050US; and
- (b) Revocation and Power of Attorney by Assignee and Exclusion of Inventor(s) under 37 C.F.R. §3.71;

(37) the Notice Regarding Power of Attorney mailed on February 8, 2002 by the Patent Office;

(38) the Notice of Recordation of Assignment Document mailed on March 12, 2002 by the Patent Office, with recorded Recordation Form Cover Sheet and Certificate of Merger; and

(39) the Notice Under 37 CFR 1.251 – Patent mailed on February 27, 2006 by the Patent Office.

Pursuant to 37 CFR 1.251(a)(1)(iii), Patentee submits that the copies provided herewith are a complete and accurate copy of the Attorneys for Patentee's record of all the correspondence between the Patent Office and the Patentee for the above-identified patent (except for U.S. patent documents). Patentee is aware of the following correspondence between the Patent Office and the Patentee for the subject patent that is not among Attorneys for Patentee's records (and for which a copy has not been provided):

Submission of Formal Drawings, and Formal Drawings filed on November 14, 1998.

Patentee is not aware that the missing documents are in her possession.

Patentee respectfully requests that the file of the above-identified patent be reconstructed pursuant to the provisions of 37 CFR 1.251.

It is believed that no fee is due in connection herewith this response. However, should the Patent Office determine otherwise, please charge the required fee to Jones Day Deposit Account No. 50-3013.

Respectfully submitted,

Date: August 25, 2006


Adriane M. Antler 32,605
(Reg. No.)
JONES DAY
222 East 41st Street
New York, New York 10017
(212) 326-3939

Enclosures



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

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NOTICE UNDER 37 CFR 1.251 - Patent

The file of the above-identified patent cannot be located after a reasonable search. Therefore, the Office is initiating the reconstruction of the file of the above-identified patent pursuant to the provisions of 37 CFR 1.251.

Patentee is given a period of **SIX (6) MONTHS** from the mailing date of this notice within which to provide a copy of patentee's record (if any) of all of the correspondence between the Office and patentee for the above-identified patent (except for U.S. patent documents), a list of such correspondence, and a statement that the copy is a complete and accurate copy of patentee's record of all of the correspondence between the Office and the patentee for the above-identified patent (except for U.S. patent documents), and whether patentee is aware of any correspondence between the Office and patentee for the above-identified patent that is not among patentee's records.

The following paper(s) pertaining to the above-identified patent cannot be located after a reasonable search:

Therefore, the Office is initiating the reconstruction of such paper(s) pursuant to the provisions of 37 CFR 1.251.

Patentee is given a period of **SIX (6) MONTHS** from the mailing date of this notice within which to provide a copy of the paper(s) listed above and a statement that the copy of such paper(s) is a complete and accurate copy of patentee's record of such paper(s).

Alternatively, patentee may reply to this notice by producing patentee's record (if any) of all of the correspondence between the Office and the patentee for the above-identified patent for the Office to copy (except for U.S. patent documents), and provide a statement that the papers produced by patentee are patentee's complete record of all of the correspondence between the Office and the patentee for the above-identified patent (except for U.S. patent documents), whether patentee is aware of any correspondence between the Office and the patentee for the above-identified patent that is not among patentee's records. Such records must be brought to the Customer Service Center in the Office of Initial Patent Examination (Crystal Plaza 2, 2011 South Clark Place, Arlington, VA 22202).

If patentee does not possess any record of the correspondence between the Office and the patentee for the above-identified patent (or any copy of the paper(s) listed above), patentee must reply to this notice by providing a statement that patentee does not possess any record of the correspondence between the Office and the patentee for the above-identified patent.

A printout from PALM of the contents of the file of the above-identified application is included with this notice.

Direct the reply to this notice to:

Mail Stop RECONSTRUCTION
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Direct questions concerning this notice to:

Darren Smith
(703) 308-7205 ext. 140



Express Mail No. EV 475 143 057 US

PTO-2055-B (Rev. 10/03)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

In re Patent No.:

5,057,540

Patentee:

Charlotte A. Kensil

Patent Date:

October 15, 1991

Application No.:

07/573,268

Filing Date:

August 27, 1990

Direct to:

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Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

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NOTICE UNDER 37 CFR 1.251 - Patent

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Statement (check the appropriate box):

The copy submitted with this reply is a complete and accurate copy of applicant's record of all of the correspondence between the Office and the applicant for the above-identified application (except for U.S. patent documents), and applicant is not aware of any correspondence between the Office and applicant for the above-identified application that is not among applicant's records.

The copy of the paper(s) listed in the notice under 37 CFR 1.251 is/are a complete and accurate copy of applicant's record of such paper(s) as resident in the file of Attorneys for Patentee.

The papers produced by applicant are applicant's complete record of all of the correspondence between the Office and the applicant for the above-identified application (except for U.S. patent documents), and applicant is not aware of any correspondence between the Office and the applicant for the above-identified application that is not among applicant's records.

Applicant does not possess any record of the correspondence between the Office and the applicant for the above-identified application.

August 25, 2006
Date


Signature

Adriane M. Antler
Typed or printed name

A copy of this notice should be returned with the reply.

Burden Hour Statement: This collection of information is required by 37 CFR 1.251. The information is used by the public to reply to a request for copies of correspondence between the applicant and the USPTO in order to reconstruct an application file. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 60 minutes to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.